



## PLANNING COMMISSION STAFF REPORT JUNE 28, 2012

<b>Project:</b>	<b>MISSION CREEK PLANNED DISTRICT (PLN2012-00109)</b>
<b>Proposal:</b>	To consider a Preliminary and Precise Planned District Rezoning, Vesting Tentative Tract Map No. 8106, a preliminary grading plan and an Environmental Impact Assessment (EIA) to allow the development of 41 new single-family homes, the retention of an existing single-family home, and associated grading, infrastructure, open space, landscape and circulation improvements on a 16.3 acre site.
<b>Recommendation:</b>	Recommend approval to City Council
<b>Location:</b>	42186 Palm Avenue (Four Winds Growers Nursery) in the Mission San Jose Community Plan Area. APNs 513-0472-006, 513-0472-007, 513-0473-012 (See aerial photo next page)
<b>Area:</b>	16.3-acres total gross area
<b>People:</b>	John Wong, Mission Peak Company, Applicant Richard Frisbie, Agent of Applicant Eddie Sieu, RJA Civil Engineer, Consultant Don Dillon Jr., Property Owner Scott Ruhland, Staff Planner (510) 494-4453; <a href="mailto:sruhland@fremont.gov">sruhland@fremont.gov</a>
<b>Environmental Review:</b>	A Mitigated Negative Declaration has been prepared and circulated for this project in accordance with the requirements of the California Environmental Quality Act (CEQA).
<b>General Plan:</b>	Low Density Residential, 2.3-8.7 units per acre
<b>Zoning:</b>	Existing: A, Agricultural (5 acres); R-1-10, Single-Family Residential (11 acres) Proposed: <u>Precise Planned District, P-2012-109</u>

### EXECUTIVE SUMMARY

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The applicant is requesting approval of Preliminary and Precise Planned District, Vesting Tentative Tract Map No. 8106 and a preliminary grading plan for the development of 41 new single-family detached homes, and the retention of one existing home, for a total of 42 homes, on a site consisting of three existing parcels totaling approximately 16.3 acres. The proposed development has a net density of 3.2 units per acre. The project also includes the construction of a new public street, an extension of San Marcos Avenue, a pedestrian trail and associated infrastructure, landscape and open space improvements. The project is located at 42186 Palm Avenue, the site of Four Winds Growers nursery, which is relocating to Watsonville, California. Staff recommends that Planning Commission recommend

approval of the Preliminary and Precise Planned District, Tentative Tract Map and preliminary grading plan to the City Council based on findings and subject to conditions of approval.



Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



## SURROUNDING LAND USES

North: Residential and Agricultural Use, Agricultural District; and Mission Creek

South: Vacant City owned property, R-1-10 District

East: Single-Family Residential, R-1-8 District

West: Single Family Residential, R-1-8 District

## **BACKGROUND AND PREVIOUS ACTIONS**

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The project site is the location of Four Winds Growers nursery. The land was originally purchased by the Dillon Family in 1956 for the purpose of establishing a container nursery for citrus trees and other container grown edible ornamental plants. After over fifty years at this location and due to the need to relocate part of the growing operation indoors, the nursery operation has decided to relocate to Watsonville, California. With the exception of a previous Private Street approval for Four Winds Terrace, there are no previous applications or entitlements associated with the property.

The City owns a large tract of land consisting of four parcels (17.5 acres) immediately south of the project site. Four Winds Growers currently leases a portion of this land for their nursery operation. This lease will continue, if the project is approved, to facilitate continued operation of the nursery until all facilities are moved to Watsonville.

## **PROCEDURE FOR TONIGHT'S HEARING**

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At tonight's hearing, the Planning Commission is charged with completing three primary tasks:

1. Consider adoption of the Mitigated Negative Declaration and Mitigation Monitoring Plan and find this action reflects the independent judgment of the City of Fremont per Guideline 15074 of the CEQA Guidelines.
2. Consider request for approval of the proposed Preliminary and Precise Planned District, based on findings specified in Section 8-21813 of the Fremont Municipal Code to permit the development of 41 new single-family homes and retention of one existing single-family home and associated infrastructure, circulation and open space improvements.
3. Consider request for approval of Vesting Tentative Tract Map No. 8106 based on findings specified in Section 8-1418 of the Fremont Municipal Code to permit the subdivision of land for 42 single-family lots, common area lots and associated infrastructure improvements.
4. Consider request for approval of preliminary grading plan based on findings specified in Section 8-4109 of the Fremont Municipal Code to permit grading at the quantities and time period requested.

## **PROJECT DESCRIPTION**

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The project consists of a new residential neighborhood including the proposed development of 41 new single-family homes and the retention of one existing home on site for a new 42-lot subdivision. A new public street, Four Winds Court, and the extension of an existing street, San Marcos Avenue, into the project site are also proposed. Associated infrastructure, utility, open space and landscape improvements are all included with the project. The project site consists of the three parcels totaling approximately 16.3 acres. The project proposal includes a related property exchange agreement subject to City Council approval for a transfer of City property (see details below). The design also includes an extension of public streets across a separate San Francisco Public Utilities Commission (SFPUC) right-of-way (Hetch Hetchy) subject to SFPUC approval. Approximately seven acres will be retained as permanent open space owned and maintained by a future homeowners association (HOA). The net developable acreage of the site is approximately 13 acres resulting in a project net density of 3.23 units per acre. The exchange facilitates design of a conforming public street section, tree preservation of a 46-inch oak tree and a more regular lotting pattern than could otherwise be achieved.

The project design includes four house plans, each with two elevation types. The homes are designed in traditional Mission and Spanish Colonial styles with varied materials, colors and details. The homes are all four bedrooms and range in size from 3,800-4,200 square feet including garage. The lot sizes for the homes range from 5,300 – 11,630 square feet, with an average lot size of 6,300 square feet. Project plans area included as Exhibit “C”.

Proposed open space amenities within the project include the retention of almost all trees on site, in particular a large oak tree grove; a public pedestrian pathway system; a small community garden and citrus tree grove; protection of the riparian environment; and, permanent open space protection for the open space areas of the project. The permanent protection of open space includes an approximate four-acre dedication of permanent open space (Lot B), and an approximate three-acre dedication of the Mission Creek riparian corridor to Alameda County Flood Control District (Lot A). The HOA will maintain the dedication of permanent open space and Alameda County will maintain the riparian corridor.

The project also includes a property exchange agreement (Agreement) between the City and applicant. The purpose of the Agreement is to facilitate a property and street improvement exchange between the City and the applicant. Specifically, the City is exchanging approximately 14,000 square feet of land area in two locations to improve lot planning and circulation. The two locations include a linear shaped piece of land that extends from the City property to Mission Creek; and also a smaller triangle portion of land near an existing oak tree that will be retained. The linear portion will be used for public street improvements, lot area for four lots and open space dedication. The public street area will be dedicated back to the City. The triangle portion will be used for public street improvements and be dedicated back to the City. In return, the applicant will construct full street improvements along the City’s property frontage entirely on the project site. This normally would be not required; however, in this case, the City receives the benefit of completed street improvements including on-street parking and utility placement along its frontage without the loss of land in this location. The City will also benefit from an easement on the open space portion of the project that would allow the City to construct trail and circulation improvements to facilitate the city-wide trail system, including a bridge over the creek, in the future if warranted.

## **PROJECT ANALYSIS**

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### ***General Plan Conformance***

The existing General Plan land use designation for the project site is Low Density Residential, 2.3-8.7 units per acre. The proposed project is consistent with the existing General Plan land use designation for the project site because the project consists of single-family residential development within the specified net density range, 3.2 units per net acre. In this instance the net developable area excludes the three acres of riparian and creek area and the portion of the project that crosses the SFPUC right-of-way parcel. The project is consistent with the following General Plan Policies and Implementation:

*LAND USE POLICY 2-2.5: Zoning and Subdivision Regulations - Use zoning and subdivision regulations to direct the city’s growth, ensure sufficient opportunities for new development, improve Fremont’s quality of life, create complete neighborhoods, reduce nuisances, achieve compatibility between adjacent properties and uses, address land use conflicts, and protect the health and safety of residents, visitors, and workers.*

IMPLEMENTATION 2-2.5.F: Planned (P) District - *Use Planned Development (P) zoning to provide flexibility in application of the zoning code, encourage more desirable site planning outcomes, or achieve particular mixes of land uses or unit types. Within mixed use areas, P District zoning may be used to indicate sites or portions thereof on which housing or commercial is a required land use.*

COMMUNITY CHARACTER POLICY 4-3.14: Planned Districts - *Allow Planned Districts (PDs) as a way to achieve design excellence and innovation and to respond to site constraints and natural features. Planned districts—or PDs—allow development to depart from conventional zoning and street standards, land uses and/or dwelling types in order to achieve a product that is more attractive and sustainably designed. The overall number of housing units or square footage is determined by zoning, but the distribution or density of those units around the site can vary from traditional standards. This is often achieved by clustering development on one part of a site and leaving the rest as open space. For instance, a large site which includes a flat area and a hillside may have a single zoning designation. By building more densely on the flat area, the hillside can be preserved without reducing the overall number of units that may be built on a site. This can encourage design solutions that are more responsive to natural terrain and nearby land uses.*

- **Analysis:** The project is consistent with the above stated policies and implementation because use of the Planned District zoning is appropriate in this location to facilitate compatibility between existing and proposed uses, a desirable site plan, tree and open space preservation, community garden and open space amenities.

LAND USE POLICY 2-3.7: Green Neighborhoods - *Integrate open space, parks, street trees, landscaping, and natural features into Fremont's neighborhoods to enhance their visual quality and improve access to nature and recreation. The maintenance and improvement of Fremont's parks, greenbelts, medians, flood control channels, urban forest, and other "green" features should be seen as an important part of the City's efforts to address climate change by utilizing trees to sequester carbon from the atmosphere.*

- **Analysis:** The project is consistent with the above stated policy because tree and open space preservation is a major feature of the project design. The riparian corridor and existing trees on site are specifically incorporated into the project. The project also includes a trail through the open space and provides the ability for passive recreation. The project will also achieve a minimum of 96 points on the Alameda County Build it Green checklist.

LAND USE POLICY 2-6.9: Protection of Planned Development Open Space - *Strongly discourage the encroachment of development onto common open space areas within planned developments or other residential projects. Where feasible, shared open space areas in residential subdivisions shall be permanently restricted to open space uses through deed restrictions or other appropriate means.*

- **Analysis:** The project is consistent with the above stated policy because the planned open space will be protected with an open space easement and be preserved in perpetuity.

CONSERVATION POLICY 7-1.1: Preservation of Natural Habitat - *Preserve and protect fish, wildlife, and plant species and their habitats including wetlands, creeks, lakes, ponds, saltwater bodies and other riparian areas. Maintain these areas for their critical biological values and to help improve water quality.*

IMPLEMENTATION 7-1.1.A: Protect Riparian and Wetland Areas - *Preserve and minimize impacts to natural and semi-natural wetland areas, including riparian corridors, vernal pools and their wildlife habitat through the development and environmental review process. Riparian areas and wetlands should be protected and/or restored as project amenities. Require mitigation for potential significant environmental impacts on riparian areas from development.*

- **Analysis:** The project is consistent with the above stated policy and implementation because the project is preserving natural habitat and measures are included to reduce impacts to the riparian corridor and highlight it a feature of the project.

CONSERVATION POLICY 7-7.3: Land Use Planning To Minimize Health Impacts From Toxic Air Contaminants - *Coordinate land use planning with air quality data and local transportation planning to reduce the potential for long-term exposure to toxic air contaminants (TAC) from permanent sources that affect the community.*

IMPLEMENTATION 7-7.3.C: Incorporate TAC Controls with New Development - *New development projects with sensitive receptors within 1000 feet of a freeway or major TAC source shall assess the TAC health risk for the site and incorporate, to the maximum extent feasible, risk reduction measures to reduce exposure to TAC. Risk reduction measures may include, but not limited to, project phasing, site orientation, distance separations, landscape buffering, building air filtration systems, modified building design or building type, or off-site improvements at a TAC source.*

- **Analysis:** The project is consistent with the above stated policy and implementation because the project includes TAC controls to mitigate potential impacts. Such controls include the use heavy landscape buffering and screening along the freeway to absorb contaminants, site plan orientation and use of building air filtration systems.

MOBILITY POLICY 3-2.3 Pedestrian Networks - *Integrate continuous pedestrian walkways in Fremont's City Center, Town Centers, residential neighborhoods, shopping centers, and school campuses. Place a priority on improving areas that are not connected by the City's pedestrian network, with the objective of making walking safer, more enjoyable, and more convenient.*

- **Analysis:** The project includes a public pedestrian trail system that will be linked to the public sidewalk. The trail will be designed in a manner that will allow its continuation should the parcel directly to the north (Ura parcel) be developed. The trail will connect to the public street Fontes Drive, just north of the Ura parcel. Staff has identified a location on the opposite side of Mission Creek for continuation of the Mission Creek trail that currently terminates at Palm Avenue. An existing Alameda County Flood control maintenance road and the pending development of the Bringhurst parcel on the north side of Mission Creek will facilitate trail improvement and extension to Mission Boulevard at this location in conformance with the General Plan.

SAFETY POLICY 10-8.1: Site Development Acceptable Noise Environment - *A noise environment which meets acceptable standards as defined by the State of California Building Code and local policies contained herein.*

IMPLEMENTATION 10-8.1.A: Noise Standards - *New development projects shall meet acceptable exterior noise level standards. The "normally acceptable" noise standards for new land uses established in Land Use Compatibility for Community Exterior Noise Environments shown in Figure 10-11 shall be used as modified by the following:*

*The goal for maximum acceptable noise levels in residential areas is an Ldn of 60 dB(A). This level shall guide the design of future development, and is a goal for the reduction of noise in existing development. A 60 Ldn goal will be applied where outdoor use is a major consideration (e.g., backyards in single family developments and recreation areas in multifamily projects). The outdoor standard will not normally be applied to small decks associated with apartments and condominiums, but these will be evaluated on a case-by-case basis. When the City determines that providing an outdoor Ldn of 60 dB(A) or lower cannot be achieved after the application of appropriate mitigations an Ldn of 65 dB(A) may be permitted at the discretion of the City Council.*

- **Analysis:** The project generally complies with this policy and implementation; however, there are locations of the site (Lots 34-42) that exceed 60 dB(A), up to 65 dB(A) in the rear yard areas. Per Implementation 10-8-1.A, when the City determines that providing an outdoor Ldn of 60 dB(A) or lower cannot be achieved after the application of appropriate mitigations an Ldn of 65 dB(A) may be permitted at the discretion of the City Council. The only mitigation that has been identified that would provide a sound reduction to 60 dB(A) for Lots 34-42 is the construction of a sound wall along Interstate 680 (I-680) within California Department of Transportation (Caltrans) right-of-way. Since the applicant does not have the authority to construct a sound wall at this location without the approval of Caltrans, staff did not recommend this mitigation. Instead, staff is recommending approval of the site plan as proposed with noise levels up to 65 dB(A) as substantially conforming to this General Plan policy because sound levels are similar to other areas of the City, disclosure will be provided to future buyers, and design features will be provided to protect rear yard “patio” areas.

### ***Zoning Regulations***

The project site is currently zoned Agriculture (approximately five acres) and R-1-10, Single Family Residential (approximately 11 acres). The Agriculture zoning designation is inconsistent with the current land use designation of the General Plan. The applicant has requested a rezoning to Preliminary and Precise Planned District to foster the objectives of the project which include varied lots sizes between 5,300 and 11,600 square feet with an average lot size of 6,360 square feet; clustering homes away from the adjacent riparian corridor; preservation and enhancement of existing trees; dedication and maintenance of approximately four acres of open space; maintenance of stormwater quality treatment measures and hydro-modification improvements; and public trail improvements.

The homes generally follow the building development standards of the R-1-6 residential zoning district. The design analysis below provides a more detailed discussion of project deviations. Staff has also consider the Design Guidelines for Small-Lot Single-Family Residential Development as applicable since some lots are below 6,000 square feet, but has not applied them in their entirety to the whole of the project due to the lot size variation.

### ***Planned District Analysis***

- **Lot Width and Depth**  
The R-1-6 standard is 55 feet for lot width and 100 feet for lot depth. The project complies with the lot width standard. With the exception of Lots 1-17, the project complies with the lot depth standard. Given the initial site width and taking into account the public street standard, and desire to provide larger rear setbacks to the home adjacent to San Marcos Avenue, staff believes the lots depths of 70 feet (Lots 10-17) and 80 feet (Lots 1-9) are warranted.

- *Front Yard Depth*

The R-1-6 standard is 20 feet. The project provides front yard depths of 20 feet for garages, and minimum of 10 feet for the homes although most front yard depths are in the 12-18 foot range. The front yard courtyards on Lots 10-17 are seven feet from the property line. Staff believes the deviations to standard front yard setbacks are warranted due to overall project site shape and configuration; and the desire to create a more intimate neighborhood setting while promoting neighbor interaction.

- *Side Yard Depth*

The R-1-6 standard for two story homes is a minimum of six feet and a total of 15 feet. The project provides minimum side yards of five feet. Street side yards are a minimum of 6 feet although most are 10 feet or more. Staff believes these deviations are appropriate given the design of the homes. Side yard setbacks at the first story are a minimum of five feet and a total of 10 feet between structures for most lots. The second stories are greater in most instances due to home placement on the lots and first to second story floor area ratio. Plan 2 also has an interior courtyard with the garage placement at the rear of lot which provides a large separation of structures.

- *Rear Yard Depth*

The R-1-6 standard for two story homes is 25 feet. The project provides a minimum of 15 feet although that only occurs on five of the 42 lots. Most lots provide larger setbacks. Lots 1-9, which back up to existing homes on San Marcos Avenue, were given a larger rear setback that range between 22-27 feet. Lots 10-17 on the opposite side of the street have minimum rear yard setbacks of 18 feet. The rest of the homes vary between 20-27 feet with two lots having setbacks of 35 feet or more. Staff believes these slight variations are warranted given that one-half of the total lots back up to open space. The home design are also such that provide useable side yard areas and front courtyard areas. Given these factors with the intent of the rear yard setback to provide ample private open space, staff believes the design objective has been achieved.

- *Building Height*

The R-1-6 standard is 30 feet. The project complies with this standard.

### *Parking*

The project provides two covered garage spaces and two uncovered driveway spaces per lot for a total of 84 covered and 84 uncovered off-street parking spaces in compliance with the minimum parking standards required of per Section 8-22003 of the FMC. The project will also provide approximately 80 on-street parking spaces.

### *Affordable Housing*

The applicant has proposed an alternative Affordable Housing Plan (AHP) in lieu of following the basic requirement for on-site construction of below market rate units. The AHP specifies payment of the in-lieu fee to comply with the Affordable Housing Ordinance. Based on the fee amount of \$20.25, (effective July 1, 2012) of an average lot size greater than 6,000 square feet and the total square footage of the project, the estimated affordable housing in-lieu fee is \$2,875,642. The final fee will be calculated based on individual home square footages with the fee in effect at the time of issuance of building permits.



## *Design Analysis*

### *Site Planning*

The site is designed in a longitudinal fashion due to the size and shape of the three parcels that comprise the overall project site. The front third of the site is also bisected by the SFPUC Hetch-Hetchy easement. In addition, site design is heavily influenced by the adjacent Mission Creek riparian corridor.

The portion of the site between Palm Avenue and the Hetch-Hetchy easement is long and narrow. The new street, Four Winds Court, is placed slightly off-center and runs the length of the parcel. The street location allows deeper lots (80 feet) on the southern portion of the site, which are adjacent to existing homes on San Marcos Avenue and results in larger rear yard setbacks. The lots on the northern portion are slightly shallower (70 feet) where they are adjacent to the undeveloped "Ura" parcel.

The next parcel beyond the Hetch-Hetchy easement is constrained by the easement itself and the Mission Creek riparian corridor. The street makes its first curve in this location, avoiding the riparian corridor and then continues on until it curves again where it abuts a City-owned parcel. San Marcos Avenue will also be extended and join Four Winds Court in this location. It then continues the length of the parcel. Single-family lots are located on both sides of street where it curves and meets the City-owned parcel; and the lots are then single-loaded on the development side where it directly abuts the City-owned parcel.

On the last parcel, Four Winds Court curves again where it avoids a large, 46-inch diameter oak tree that will be preserved with the project. Four Winds Court is single-loaded on the north side of the street where the street is adjacent to the I-680 corridor. I-680 is elevated and above the project site at this location by about 15-20 feet. A large buffer area will be planted with trees and shrubs to screen the residential development.

The portion of the site behind the lots and adjacent to the riparian corridor, Lot B, is common area open space and will be improved with a public trail, storm water quality improvement and native landscaping. A citrus orchard and community garden for the new neighborhood will also be located in this area.

### *Architecture*

The architecture of the homes is based upon influences and details from Mission and Spanish Colonial design styles. The exterior of the homes are largely stucco, for ease of maintenance, with appropriate stone and brick secondary and base materials, and iron, tile and wood tertiary materials for shutters, pot shelves and decorative details. The homes include appropriate window framing, window shutters, recessed gable details, enhanced head and sill treatments, rafter tails and molded eaves and cornices. They also feature decorative tile entry surrounds and each home will have a unique feature of tile, wrought iron or courtyard pilaster for the entry design.

Overall, four home plans are proposed each with two different front elevations and roof styles. All the homes also include small front porches or front courtyard areas designed as outdoor living spaces. Additional features on the various plans include: a covered rear yard outdoor living area (Plana 1 and 2, Lots 34-42); front upper balcony (Plan 1A); porte-cochere feature and rear garages (Plana 2A and 2B); and front court yards (Plana 4A and 4B).

The floor area ratio (FAR) of Lots 1-17 vary slightly between 0.65 and 0.68, or 65-68 percent. The FAR of Lots 18-22 vary between 0.63-0.75, or 63-75 percent, and the FAR of Lots 23-42 varies between 0.55 and 0.70, or 55-70 percent.

#### *Small Lot Design Guidelines*

There are 20 lots slightly below 6,000 square feet, although they are all in the 5,820-5,925 square foot range with the exception of two lots that are about 5,600 and 5,300 square feet respectively. The average lot size is 6,360 square feet. Typically, lots less than 6,000 square feet are subject to the Design Guidelines for Small-Lot Single-Family Residential Development per Planned District requirements. However, given the average lot size of 6,300 square feet and the fact that the project is paying the Affordable Housing in-lieu fee at a rate based on a lot size greater than 6,000 square feet, staff is not recommending strict conformance with the Small-Lot Design Guidelines as they are not completely appropriate to traditional single-family home patterned development. However, the project does conform to the following Small-Lot Design Guidelines:

#### Site Planning

- Guideline 1.1.1 – Connect to Adjacent Residential Neighborhoods
- Guideline 1.1.3 – Perimeter Building Orientation
- Guideline 1.1.4 – Pedestrian and Bike Connections
- Guideline 1.2.2 – Connecting to Amenities
- Guideline 1.2.3 – Vistas
- Guideline 1.2.4 – Pedestrian and Bike Connections
- Guideline 1.3.1 – Public Streets
- Guideline 1.3.3 – Public Street Design Elements

The site plan is laid out in a fashion that best fits the overall site configuration and adjacent lotting pattern of existing neighborhoods. The vehicular and pedestrian circulation system is well integrated into the surrounding area and completes the network for the neighborhood. The low scale, low profile nature of the development preserves surrounding vistas.

#### Lot Plan and Building Configuration

- Guideline 2.2.1 – Front Yard Setbacks
- Guideline 2.2.4 – Rear Yard Setbacks
- Guideline 2.4.1 – Garage and Porch Orientation
- Guideline 2.4.3 – Landscaping and Trees
- Guideline 2.5.1 – Desired Yard Areas

The lot plans and configuration of buildings, setbacks and garage orientation are all consistent with guidelines. Building separation of 10 to 15 feet will be provided between homes with greater distances for second stories. All lots will provide ample yard and private open space areas and include landscaping and ornamental trees in the front yards.

#### Building Design, Elements, Materials and Color

- Guideline 3.1.1 – Massing
- Guideline 3.1.4 – Emphasizing Articulation

- Guideline 3.4.2 – Roof Forms
- Guideline 3.5.1 – Entry and Porch Requirements
- Guideline 3.8.2 – Fence Details
- Guideline 3.8.3 – Gates and Entries

The building design includes common materials and elements that are differentiated between specific design details and articulation on each home. The homes include one- and two-story elements and multiple roof forms to help vary the massing. Front courtyards, porches or balconies provide additional interest to the street. Garage placement is varied and setback further than the front façade of the home. Each home will also provide a sense of entry through a gate, pilasters or other feature.

#### Open Space and Landscaping

- Guideline 4.1 – Street Trees and Yard Trees
- Guideline 4.2 – Front Yard Landscaping
- Guideline 4.3 – Tot Lots, Parks and Open Space

The project includes many aspects of landscaping design and open space preservation consistent with the Small-Lot Design Guidelines. Individual lot landscaping, common area open space, community garden and tree preservation are all aspects of the project that provide consistency.

#### *Green Building Technologies:*

The applicant has submitted a “Build it Green” checklist for the proposed project. The goal for the project is to achieve 96 points on the checklist as proposed by the applicant. The project will also be subject to CalGreen, the State’s Green Building Code, as well as local green building provisions.

#### *Open Space/Landscape Design*

The project is unique in that it retains almost all trees on-site, including a grove of oak trees, the largest at 46-inches in diameter. This area will be made a focal point of the project. The project proposes approximately seven acres of common open space preservation with trail improvements and native landscaping. The open space portion of the project also includes a citrus orchard and community garden as homeowner amenities. A variety of trees will also be planted on-site, particularly along the I-680 corridor for buffering and screening purposes.

The landscape design of the lots includes front yard landscaping with a variety of native trees, plants and shrubs. A major feature of each lot will be the on-site bio-retention areas that are required for storm water quality purposes. These areas will be designed as “rain gardens” and incorporated into the landscape design of each individual lot. These areas will be maintained by the HOA. The rear yards of the homes will be left for each individual homeowner to landscape.

#### *Circulation /Access Analysis:*

Access to the project site is provided through Palm Avenue. Palm Avenue is an existing residential collector street with varying right-of-way width and a pavement width of approximately 40 feet. Primary access to the proposed development will be through a new public street connection at Four Winds Court and Palm Avenue. Secondary access will be provided by removal of the existing temporary cul-de-sac at the terminus of San Marco Avenue and extending San Marco Avenue eastwards through the SFPUC parcel to new Four Winds Court. Development of the public street system with the project will allow for

approximately 80 on-street parking spaces. The new street will terminate in a cul-de-sac with a pedestrian connection to the trail system. The cul-de-sac at this location has no other outlet due to the location of I-680 and Mission Creek.

*Street Right-of-way Dedication and Improvements:*

The developer is required to dedicate right-of-way and install street improvements in accordance with the Subdivision Ordinance and Street Rights-of-way and Improvement Ordinance. Due to the proposed property exchange agreement, street frontage improvements will occur along both sides of the streets rather than the minimum requirement of a half-street improvement. The following outlines the right-of-way and street improvement requirements for this project:

- Palm Avenue is designated as a residential collector with a proposed right-of-way of 60 feet and curb to curb width of 40 feet. The subdivider shall dedicate an additional 13 feet of right-of-way along the project frontage to install the City standard 11-foot wide planter for the full width of Palm Avenue frontage. Street improvements include, but are not limited to: removal of sidewalk, removal and replacement of broken curb and gutter, installation of pavement, curb, gutter, a five-foot wide sidewalk, accessible ramps, landscape, irrigation, street lights, and storm drain facilities.
- San Marco Avenue is an existing minor residential street with a right-of-way of 56 feet and curb to curb width of 36 feet with an offset cul-de-sac terminus built with Tract 7051. The subdivider shall remove the cul-de-sac and extend San Marco Avenue to the east through SFPUC right-of-way to the new public street, Four Winds Avenue. The street extension will transition the existing 36-foot wide street with 10 foot planters to 34-foot wide street with 11-foot planters to meet current minor residential street standards. Street improvements will include, but are not limited to: removal of cul-de-sac pavement, curb, gutter and sidewalk, installation of new pavement, curb, gutter, sidewalk, accessible ramps, four-foot wide bulb-outs to accommodate storm water treatment measures, landscape, irrigation, street lights, fire hydrants, storm drain facilities and utility mains and services to serve the development.
- Four Winds Court along frontage of Lots 1 through 34 is proposed as a minor residential public street. The subdivider shall dedicate right-of-way and provide complete street improvements for the new minor residential street, Four Winds Court, with an ultimate right-of-way of 56-feet, a pavement width of 34-feet, and a planter width of 11-feet. The proposed right-of-way being dedicated by the subdivider is 46-feet with additional 10-feet to be dedicated when the adjoining City owned parcel will be developed. Street improvements include, but are not limited to: installation of pavement, curb, gutter, sidewalk, driveways, four-foot wide bulb-outs to accommodate storm water treatment measures, landscape, irrigation, street lights, fire hydrant; and utility mains and services to serve the development.
- Four Winds Court along frontage of Lots 34 through 42 (freeway frontage) is proposed as a frontage street with a standard residential cul-de-sac terminus. The subdivider shall dedicate right-of-way and provide complete street improvements for the frontage street, Four Winds Court, with an ultimate right-of-way of 41 feet, a pavement width of 29 feet, and a standard 11-foot planter along the developed side. Street improvements include, but are not limited to: installation of pavement, curb, gutter, sidewalk, driveways, four-foot wide bulb-outs to accommodate storm water treatment measures, landscape, irrigation, street lights, fire hydrant; and utility mains and services to serve the development.

### *Grading*

The 16.3-acre project site is currently operates as Four Winds Growers, an edible plant container nursery. The site is comprised of three distinct parcels separated by the Hetch-Hetchy easement and City-owned parcels. East of the Hetch-Hetchy easement, the site generally slopes to Mission Creek to the north while west of the easement, the site drains to Palm Avenue. Existing ground elevations vary from approximately 173 feet above sea level at Palm Avenue to approximately 235 feet above sea level at the eastern property boundary along I-680 freeway. The applicant is proposing to create conventional flat building pads on all lots in general except that the lots that are along Mission Creek shall have rear-draining pads to minimize grading along the creek. The lots west of the Hetch-Hetchy easement (Lots 1 through 17) will have retaining walls on three sides up to a exposed height of three feet and four feet in some locations.

### *Drainage:*

The project site is tributary to Zone 6, Line L watershed area and is bounded by Mission Creek. This creek is partially under the authority of Alameda County Flood Control & Water Conservation District (ACFC&WCD). The proposed layout of storm drain facilities is shown on the proposed Vesting Tentative Tract Map.

The easternmost end of the project (Lots 36 to 42) drains into Mission Creek at the existing box culvert wall shown on the preliminary utility plan. Prior to discharge, post development flows will be mitigated to pre-development levels by an underground vault and outlet control structure. The middle third of the proposed project will drain into two interconnected underground vaults to provide storm water storage and to meter peak runoff to predevelopment levels per Alameda County Flood Control standards. Between the Hetch-Hetchy easement and Palm Avenue, along Four Winds Court, a new 18-inch storm drain main will collect mitigated pre-development flows upstream and convey un-mitigated flows and drain into the existing 24-inch main in Palm Avenue. The proposed two underground vaults in the middle third of the project will be oversized to mitigate for the western portion of the site. The proposed drainage system will be subject to review and approval of the City Engineer and ACFC&WCD.

### *Urban Runoff Clean Water Program*

The Municipal Regional Stormwater NPDES Permit (MRP) requires all new and redevelopment projects to incorporate measures to prevent pollutants from being conveyed in stormwater runoff and into the public storm drain system. This project is required to comply with the MRP by incorporating source controls and treatment measures into the project design. Since the project involves creating or replacing more than one acre of impervious surface and since the site is located within areas susceptible to hydromodification, the project is also required to provide mitigation for hydromodification.

The project intends to meet the Low Impact Development C.3 stormwater treatment requirements by constructing bio-retention treatment measures for all lots draining positively to fronting public streets and by constructing bio-retention treatment measures on privately maintained common lots to treat rear draining lots along Mission Creek. Public runoff from new public streets will be treated by a series of on-street stormwater planters within the proposed four-foot wide bulb-outs. The locations of these treatment areas are clearly delineated on the Preliminary Stormwater Treatment Plan and are subject to minor revisions during final design to maximize public street parking.

In addition to stormwater treatment measures, the project will mitigate hydromodification by constructing three underground vaults on private common area lots. These vaults will mitigate both public and private runoff. The applicant will provide seed money to the HOA in an amount determined by City staff to provide for 20-year maintenance fund of the proposed vaults. The storm water treatment and hydromodification design will be integrated into the storm drain design for the project subject to City review and approval prior to building permit issuance.

The property owner and eventual HOA will be required to enter into a maintenance agreement for the long-term operation and maintenance of stormwater treatment measures on private property. The agreement will require the ongoing maintenance of all the designated treatment facilities. The property owner will also integrate a sidewalk and pavement sweeping program to help prevent debris and other pollutants from entering storm drains.

#### *Utility Districts*

The project will be served by Alameda County Water District for water service and Union Sanitary District for sanitary sewer service. Both districts have indicated their ability to serve the project. Although the portion of City property that is being exchanged and incorporated into project will need to be annexed into Union Sanitary District service area.

#### *Street Vacation / SFPUC access:*

The applicant will initiate and process a street vacation procedure to vacate excess right-of-way at terminus of San Marco Avenue. The excess right-of-way will be vacated in accordance with Streets and Highway Code. Additionally, the applicant will be required to acquire revocable access or encroachment for public street right-of-way across the Hetch-Hetchy easement at Four Winds Court and San Marco Avenue crossings.

#### *Alameda County Flood Control District Property*

An approximate three acre parcel (Lot A on the proposed Tentative Tract Map) will be conveyed to ACFC&WCD. This parcel includes the creek channel and surrounding riparian zone. This channel is a major flood control facility and should be under authority of the District for proper maintenance and management. The District owns property both upstream and downstream from this location. This conveyance is in the best interest of the City and future HOA who are normally not equipped to maintain facilities of this size and type.

#### *Geologic Hazards*

The project site is within an area of potential Earthquake Induced Landslides and Liquefaction on the official Seismic Hazard Zone maps, released by the State Geologist. In accordance with the State law, the project geotechnical engineer prepared a seismic hazard report. The report was peer reviewed and approved by the City subject to supplemental analysis during design level geotechnical investigations. The project improvements and building construction will conform to the recommendations of the seismic hazard report and peer review.

## ***Conformance with Other Fremont Municipal Code Requirements and Development Policies***

### ***Grading Ordinance***

As part of the proposed Vesting Tentative Tract Map the applicant has also submitted an application for preliminary grading plan approval. The applicant's engineer estimates the total project grading to be 21,290 cubic yards of cut and 25,150 cubic yards of fill resulting in approximately 3,860 cubic yards of export. Since the total grading (46,440 cubic yards) exceeds 1,000 cubic yards, Planning Commission approval of a preliminary grading plan is required.

### ***Subdivision Ordinance***

The City's Subdivision Ordinance requires a Tentative Tract Map and Final Map for all subdivision creating five or more new parcels. The applicant has submitted a Vesting Tentative Tract Map for consideration per the City's Subdivision Ordinance. The Ordinance requires a Tentative and Final Map for all subdivisions creating five or more new parcels. As such, the applicant has filed a tentative Tract Map application in conformance with the City's Subdivision Ordinance. Upon approval of the Tentative Map, the applicant will prepare all necessary materials for consideration of Final Map approval.

### ***Tree Preservation Ordinance***

An arborist report was prepared by HortScience in July 2011 for this project. Ninety-five (95) trees were evaluated representing 16 species. The majority of the on-site trees were associated with Mission Creek and twenty-five of the trees evaluated were along the property line and/or off-site along the I-680. The most frequently appearing species was the coast live oak (46 trees) with blue gum eucalyptus (15) and red river gum eucalyptus (12) being the second and third most numerous. None of the remaining species were represented by more than five trees. The arborist will assist the design team during preparation of construction documents to ensure that the existing native oak trees are preserved to the maximum extent possible and that protection and preservation measures are clearly identified on the plans. Additionally, the arborist will prepare a maintenance and management manual for ongoing preservation of the existing trees.

This project will require the removal of some non-native trees. Native trees that may be affected during construction will be evaluated with the assistance of the arborist during preparation of the construction documents to determine the feasibility for preservation. This project will comply with the Tree Preservation Ordinance required mitigation, for the loss of any private protected trees removed as part of this project, by planting a 24-inch box coast live oak tree in the open space parcel (Lot B) in addition to the trees that would be otherwise required for this project. The removal of these trees will not adversely affect the appearance of the subject property as new trees and landscaping will be installed.

Staff recommends the removal and mitigation for four native oak and nine non-native protected trees rated as moderate to poor pursuant to the City's Tree Preservation Ordinance and as described in the staff report and Conditions of Approval in Exhibit "E".

## **FINDINGS FOR APPROVAL**

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In order to approve the proposed Preliminary and Precise Planned District, P-2012-109, Vesting Tentative Tract Map No. 8106 and preliminary grading plan, the project must be found consistent with the General Plan and Zoning Ordinance. Based on the above analysis, staff finds the proposed

Preliminary and Precise Planned District, P-2012-109, Vesting Tentative Tract Map No. 8106 and preliminary grading plan are in conformance with General Plan and Zoning Ordinance and recommends the following findings:

*Planned District Findings*

- a. The proposed P district, or a given unit thereof, can be substantially completed within four years of the establishment of the P district because the project is design in a manner that can be built in phases;
- b. Each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts because the project is compatible with and designed in accordance with adjacent development;
- c. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the P district because they have been designed as public streets meeting public street standards and the size of the project is within anticipated density levels per the General Plan;
- d. Any exception from standard ordinance requirements is warranted by the design and amenities incorporated in the precise site plan, in accord with adopted policy of the planning commission and the city council because of the minor variations in standards, desire to create an intimate neighborhoods setting, ample open space preservation, tree preservation, community garden and other homeowner amenities included in the project;
- e. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development because new streets are proposed that have the ability to serve adjacent land and project improvements will also benefit any future adjacent development;
- f. The P district is in conformance with the General Plan of the City of Fremont for reasons previously stated in the staff report in the General Plan conformance section including the approval of the site plan as proposed with noise levels up to 65 dB(A) for Lots 34-42 as substantially conforming to this General Plan policy because sound levels are similar to other areas of the City, disclosure will be provided to future buyers, and design features will be provided to protect rear yard “patio” areas; and
- g. Existing or proposed utility services are adequate for the population densities proposed per the review and comment from applicable utility agencies. Staff has been in contact with appropriate utility agencies and has confirmed their ability to serve the project.
- h. For residential developments with lots having an area of less than six thousand square feet:



- a. The design and size of the dwelling units are in proportion to the size and shape of the lot and provide ample private open space because the Planned District has development standards to limit the height and setbacks of structures and include ample amounts of private open space;
- b. There is a diversity of design and structural elements within the P district through varied architectural design and style, lot and home size because of varied lot sizes with four architectural styles and four prototypes proposed for each style, with varying lots sizes and adequate distribution of mass and scale on each lot;
- c. Where the proposed residential P district abuts an existing residential development, the design of the proposed development is compatible with the design of the existing development because the majority of surrounding residential development is one and two story homes consistent with the proposed project. Larger rear yard setbacks are also provided for proposed homes that are adjacent to existing homes.
- d. A variety of architectural designs, setbacks and lot sizes have been used wherever possible in order to avoid a monotonous streetscape and to provide a varying visual open space along the street because varied lot sizes exist with four architectural styles and four prototypes for each style.
- e. Implementation of this P district is consistent with the housing goals set forth in the general plan because it provides housing to residents of Fremont and will further the City's goals of providing affordable housing.

#### *Subdivision Map Findings*

In order to approve the proposed tentative tract map, the proposed subdivision must be found consistent with the General Plan, Zoning Ordinance (FMC Section 8-1418), and the Subdivision Map Act (State law). Based on the analysis above, staff finds that the proposed Vesting Tentative Tract Map is in conformance with the General Plan, Zoning Ordinance, and the Subdivision Map Act. However, if any of the following findings can be made, the Vesting Tentative Tract Map shall be denied. Staff was not able to make any of the following findings to deny the map, and therefore, recommends approval of the Vesting Tentative Tract Map.

- a. The map fails to meet or perform one or more requirements or conditions imposed by the map act or this chapter. Any such requirement or condition shall be specified.
- b. The proposed subdivision, together with the provisions for its design and improvement, is not consistent with applicable general and specific plans. Any such inconsistency shall be specified.
- c. The site is not physically suitable for the type or proposed density of development.
- d. The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- e. The design of the subdivision or the type or improvements is likely to cause serious public health problems.

- f. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the commission may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This paragraph shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

#### *Preliminary Grading Plan Findings*

- a. The proposed project described in the application will not have an appearance, due to the grading, excavation or fill, substantially and negatively different from the existing natural appearance because the site is relatively flat and minimal earthwork is necessary to develop the project;
- b. The proposed project described in the application will not result in geologic or topographic instability on or near the site because the project will be built in accordance to the recommendations of the geotechnical consultant;
- c. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way because the project is being built with public streets and utilities design to their operational standards;
- d. The proposed project described in the application will not unacceptably affect the health, safety or welfare of adjacent residents or landowners, nor the citizens of Fremont because the project is compatible with surrounding uses and permitted per the General Plan.

The findings above are also contained in Exhibit "E" enclosed.

#### **CITY FEES**

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This project will be subject to citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, park land in lieu, capital facilities and traffic impact. All applicable fees shall be calculated and paid at the fee rates in effect at the time of building permit issuance. . The applicant also indicates a preference to pay the Affordable Housing In-lieu fee rather than construct below market rate units on site. The applicant may elect to defer payment in accordance with the City's Impact Fee Deferral Program.

#### **ENVIRONMENTAL REVIEW**

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Pursuant to the California Environmental Quality Act (CEQA), an Initial Study (Informational Item 1) and Draft Mitigated Negative Declaration have been prepared for this project. The environmental analysis identified concerns regarding potential significant impacts to air quality, biological resources, cultural resources, geology/soils, hazards and hazardous materials, and noise. The Draft Mitigated

Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to less-than-significant levels. A summary of the measures include the following: Dust control measures; wildlife surveys; cultural resource present/absence testing; geological and geotechnical design analysis; hazardous material removal; water quality protection; and, indoor and outdoor noise mitigation. These mitigation measures are included as conditions of approval for this project and in the Mitigation Monitoring Plan attached as Exhibit "A".

## **PUBLIC NOTICE AND COMMENT**

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Public hearing notification is applicable. A total of 133 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on June 12, 2012. A Public Hearing Notice was published by *The Argus* on June 12, 2012.

The applicant also held a neighborhood meeting on May 30, 2012 to present and discuss the project with surrounding neighborhood. The results of the meeting were positive and the primary concern raised by the neighbors was construction impacts and noise associated with construction activity. Given the short term time period for construction, the site plan and home locations, and the enforcement of the City's construction hours, staff believes impacts from construction will be minimal.

In addition, a Notice of Intent to Adopt a Mitigated Negative Declaration was published by *The Argus* on June 12, 2012. In addition, a courtesy sign was posted on the project site during application review.

## **ENCLOSURES**

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### ***Exhibits:***

- Exhibit "A" [Draft Mitigated Negative Declaration, Mitigation Monitoring Plan Comments and Response](#)
- Exhibit "B" [Planned District Rezoning Exhibit](#)
- Exhibit "C" [Preliminary and Precise Site Plan, Architecture, Landscape Plans](#)
- Exhibit "D" [Vesting Tentative Map 8106 including Preliminary Grading Plan](#)
- Exhibit "E" [Findings and Conditions of Approval](#)

### ***Informational Items:***

1. [Initial Study](http://fremont.gov/DocumentCenter/Home/View/7104) (also available online at <http://fremont.gov/DocumentCenter/Home/View/7104>)

## **RECOMMENDATION**

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1. Hold public hearing.
2. Recommend that the City Council adopt the Draft Mitigated Negative Declaration and Mitigation Monitoring Plan and find this action reflects the independent judgment of the City of Fremont.
3. Recommend the City Council find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals, objectives

and policies set forth in the General Plan's Land Use, Mobility, Safety and Conservation Chapters as enumerated within the staff report.

4. Recommend that the City Council approve a rezoning from Agriculture and R-1-10 to Planned District, P-2012-109 as depicted on Exhibit "B" (Rezoning Map).
5. Recommend that the City Council find the Preliminary and Precise Planned District as depicted in Exhibit "C," (Precise Site Plan, Architectural Elevations and Floor Plans, and Landscape plans), fulfills the applicable requirements set forth in the Fremont Municipal Code, and recommend that the City Council approve the Preliminary and Precise Planned District as shown on Exhibit "C." More specifically, including sheets SP-1, A1.1-5.1, L1-7 and consisting of: Preliminary and Precise Site Plan, Architectural Elevations and Floor Plans and Preliminary Landscape Plans, for Planned District P-2012-109, based upon the findings contained in this report and subject to the conditions of approval set forth in Exhibit "E."
6. Recommend the City Council find that the proposed subdivision and preliminary grading plan as shown in Exhibit "D", Vesting Tentative Tract Map No. 8106 and preliminary grading plan, is consistent with the goals, policies and implementation actions of the City of Fremont's General Plan. Government Code Section 66474 provides that a tentative map application must be denied if certain specified findings are made. None of those findings can be made in this instance as set forth in this report and Exhibit "E."
7. Recommend approval of the proposed removal and mitigation for seven protected trees pursuant to the City's Tree Preservation Ordinance.

**Existing Zoning**  
Shaded Area represents the Project Site

